THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.10372 OF 1998

DATED: 15-06-2007

Between:

The Depot Manager, APSRTC, Nizamabad Depot, Nizamabad District.

.. Petitioner

and

The District Judge, Nizamabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.10372 OF 1998

ORDER:

This writ petition is filed seeking a certiorari to call for the records relating to the order, dated 21.8.1993, passed in C.M.A.No.16 of 1991 on the file of the learned District Judge, Nizambad, confirming the order of the Authority under Payment of Wages Act, Nizamabad in P.W.C.No.50 of 1985, dated 31.5.1990, and quash the same as arbitrary and illegal.

It appears, the respondent No.3 and 137 others, all working in A.P. State Road Transport Corporation (for short 'APSRTC') at Nizamabad Bus Depot, seem to have filed an application, being P.W.C.No.50 of 1985, before the Authority under Payment of Wages Act-cum-Assistant Commissioner of Labour, Nizamabad stating that they were subjected to deduction of wages as per the particulars of schedule from the salary bill of January 1984 i.e. from 13th to 25th of January 1984. It was their case that they had attended to duties, but they could not proceed on line on account of vehicles not having been arranged for them by the management, for which they could not be made responsible and the deduction of wages is unjustified and irregular.

The petitioner-management filed its counter stating that the applicants reported for chartered duties duly signing in the control chart on the dates shown in the schedule and took the allotted buses.

But, instead of proceeding on line to operate the services, the applicants made some remarks of defects of vehicles in the log sheets and detained the vehicles. Nature of defects entered in the log sheets were checked. The vehicles were found fit for service and endorsement to that effect was made on the log sheets. In spite of that, the applicants did not take the vehicles for operation. Therefore, deduction in their wages was effected.

During the course of enquiry before the primary authority, the 3rd respondent herein had deposed that there was deduction of 13 days' wages in the salary for the month of January 1984, payable in the month of February 1984. He further deposed that since the vehicles were not in running condition and were having defects, they did not ply the vehicles and the defects were never repaired. On behalf of the petitioner-management, Senior Traffic Inspector was examined.

After going through the entire evidence on record and on hearing both sides, the primary authority held that the management of APSRTC failed to prove that the deductions made from the wages of the applicants is legal and ordered the management to pay the deducted wages of Rs.42,354.65 ps. to all the applicants. Aggrieved by the same, the petitioner-management carried the matter in appeal before the learned District Judge, Nizamabad in C.M.A.No.16 of 1991. The appellate authority also examined the case in detail along with the order passed by the primary authority and made observations that the management has not examined the mechanical foreman, who is a vital witness in the case to prove whether the defects pointed out by the workmen were rectified by him or not. The Senior Traffic Inspector, one J.Malleshwar Rao, who was examined on behalf of the management, stated that the defects pointed out by the drivers and conductors were minor and they could be ignored. The appellate

authority further observed that there are no entries in the S.R. made by the management to the effect that the defects have been rectified and the buses were in a fit condition to ply on road. It was also noticed that the Senior Traffic Inspector had admitted in his cross-examination that it is mentioned in Exs.B1 to B55 that the drivers reported in the records that they would ply the buses, if the defects entered therein were rectified. The appellate authority came to the conclusion that the management had not placed any evidence to prove that the drivers and conductors, by their wilful negligence, did not ply the buses on the road during the relevant period and it is incumbent on the part of the respondents to establish that the deductions were made in accordance with the provisions contained in the Payment of Wages Act. Ultimately, the appellate authority dismissed the C.M.A. filed by the petitioner-management. Aggrieved by the same, the present writ petition is filed.

Heard both sides. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

From a reading of the order passed by the appellate authority, which is under challenge, it is clear that absolutely no material was placed before the primary authority or the appellate authority to show that there was willful negligence on the part of the workmen in attending to duties and the defects pointed out by them were repaired and the management was also not able to prove, by any cogent evidence, that the drivers and conductors, by their willful negligence, did not ply the buses during the relevant period.

Under these circumstances, I am of the opinion that the orders passed by the primary authority as well as the appellate authority do

not call for any interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is, accordingly, dismissed. No costs.

C.V. RAMULU, J

15th June, 2007.
IBL